MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN BOB STORY, on January 18, 2001 at 8:00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Bob Story, Chairman (R)

Rep. Ron Erickson, Vice Chairman (D)

Rep. Roger Somerville, Vice Chairman (R)

Rep. Joan Andersen (R)

Rep. Keith Bales (R)

Rep. Joe Balyeat (R)

Rep. Gary Branae (D)

Rep. Eileen Carney (D)

Rep. Larry Cyr (D)

Rep. Rick Dale (R)

Rep. Ronald Devlin (R)

Rep. John Esp (R)

Rep. Gary Forrester (D)

Rep. Daniel Fuchs (R)

Rep. Verdell Jackson (R)

Rep. Jesse Laslovich (D)

Rep. Trudi Schmidt (D)

Rep. Butch Waddill (R)

Rep. Karl Waitschies (R)

Rep. David Wanzenried (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Branch

Rhonda Van Meter, Committee Secretary

Please Note: These are summary minutes. Testimony and

discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 277, 1/15/2001; HB 274,

1/15/2001

Executive Action: None.

HEARING ON HB 274

Sponsor: REPRESENTATIVE STAN FISHER, HD 75, Bigfork

<u>Proponents</u>: Roger Halver, Montana Association of Realtors

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 1.8}

REP. FISHER said this bill would exempt taxation on a homestead when a person reaches 65 years of age. There are 116,000 people in Montana over 65, and the average home value is \$79,400. There are other states who have this in their constitution. They are asking that anyone who reaches 65 can ask for an exemption from future tax increases. This does not exempt them from taxes they currently pay, they are just frozen when 65 is reached. Article 8C of the Constitution gives the legislature the right to forgive taxes on any class they choose. Article 8C, Section 5 of the Constitution states the legislature shall enact a homestead and exemption law. This will help the school issue, because older people will not vote down bond issues simply to avoid more taxes. Someone would have to live in their home seven months out of the year for this exemption to apply.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 6.2}

Roger Halver, Montana Association of Realtors, asked for support of this bill.

Opponents' Testimony: None.

<u>Questions from Committee Members and Responses</u>:

{Tape : 1; Side : A; Approx. Time Counter : 6.8}

REP. ANDERSON referred to the example the sponsor gave regarding a school building bond being failed because the older people did not want any more taxes. She asked if this exemption had been in place and this bond issue passed if it would have raised the taxes on the younger people but not the people who are under this exemption. REP. FISHER said the bond issue would have been divided among the real estate assessed value, so this is correct.

- REP. WAITSCHIES asked if the sponsor was aware there is already a \$1000 refundable credit for elderly homeowners. REP. FISHER responded he was. REP. WAITSCHIES asked if there was another exemption what the home value would have to be before someone would have to pay taxes. REP. FISHER said he cannot answer this. The average home value for people over 65 is \$79,000. There are no tax consequences from this bill until taxes are raised, and this could vary from county to county, so this would be hard to measure. REP. WAITSCHIES asked if this bill would freeze the taxes on the wealthiest people. REP. FISHER said in his opinion it would not. It does not discriminate against the wealthy or non-wealthy.
- REP. SCHMIDT asked who would pick up the additional costs of school inflation. REP. FISHER replied there is no question there would be an increased tax burden on some if taxes were increased. If a town wanted to raise \$100,000 for some type of improvement, this would be divided by the number of homes affected, which are those owned by people under 65. REP. SCHMIDT asked if there was a possibility young families would be reluctant to vote for this as the burden would really be on them. REP. HARRIS said he does not feel this way, as they are going to do what they need to do, and in urban communities this is not going to affect the tax base much.
- REP. BALYEAT said he believes there is already a mechanism that rebates the elderly home owner unless they are incredibly wealthy through the elderly home owner credit and asked if the sponsor agreed. REP. FISHER said the representative would know better of this because of his profession. REP. BALYEAT gave an example of an elderly home owner credit calculation and asked if the sponsor agreed there is already a good mechanism in place. REP. FISHER said there is already a tax protection for low income people, so there are other mechanisms to protect the low income people. He concurred with the representative's example.
- **REP. ESP** asked if there was any data to compare other states to our current tax credit mechanism. **REP. FISHER** said he was not aware of any, but other states do have this homestead exemption.
- REP. DEVLIN asked that if an improvement was done if the value of this improvement would be figured and added to the current taxes. REP. FISHER said this was correct. Any improvements would increase the base. REP. DEVLIN asked what level the property taxes be frozen if a person over 65 moves. REP. FISHER said if they moved into a new home, that home would be their homestead, but the freeze would be adjusted at that time.

REP. WADDILL said it appears this bill is discriminatory against people who have more than one acre and asked if the sponsor thought these people indeed had enough money to afford to pay taxes and why one acre was used. REP. FISHER replied it was written so in a rural area one acre can be taken with a home on it and would exempt this one acre. If there is a larger area, generally it is an income producing property and the person is not as restricted as someone on a fixed income. REP. WADDILL asked if it would also apply if someone was living on land not being used for agriculture and it was possibly only 2-3 acres. REP. FISHER said it does not make a difference on the amount acreage, someone can still use the one acre with improvements and use it as your homestead.

REP. SCHMIDT asked if someone could use this exemption and also an elderly home owner credit. **REP. FISHER** said they most likely could.

REP. ERICKSON asked if the bill had anything in it to reimburse local governments for their loss in revenue. **REP. FISHER** said it does not, because the bill is to protect people on fixed incomes, and there is no tax consequence to the community until taxes are increased.

CHAIRMAN STORY said this bill exempts from property tax as well as other assessments, fees, and charges and wondered if these were in the fiscal note. REP. FISHER replied that in his opinion there are numbers in the fiscal note that are unjustified. It reflects there would be tax increases that would cause those expenditures, and he does not know of any increases that would affect this. CHAIRMAN STORY asked what would happen with reappraisal when new values are established on homes. FISHER said the base year would be the value. CHAIRMAN STORY asked how the population over 65 rates relative to income compared with the rest of the population. REP. FISHER referred to a book given to all of the legislators and read, "Currently 13.3% of Montanans are over 65. Approximately 1.7% are over 85. The population of Montana grew by 1/3 of 1% in 1998-1999. Montana ranks 6th highest in the nation with percentage of population over age 50, 20th in the nation with population over 65, and 19th with population over 85." The largest concentration of older people is in the eastern part of the state.

REP. WANZENRIED asked if a spouse moved to a nursing home who was not the taxpayer, per definition in the bill, would the property be exempt from taxes even though it is not being occupied. REP. FISHER said as long as a surviving spouse is over 55 and continues to own the home, they would qualify. REP. WANZENRIED said line 11 of the bill says "an occupant of the homestead" and

asked the sponsor to clarify. **REP. FISHER** said the intent of the bill would permit this exemption as long as they own the home and are over 55.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 27.7}

REP. FISHER said he does not believe this puts a burden on the younger people. It gives older people and those about to retire a planning mechanism so they know what they will have during retirement. Montana is a state people are going to retire to, and if they live here seven months out of the year, allowing this would let them plan for their retirement.

HEARING ON HB 277

Sponsor: REPRESENTATIVE GAY ANN MASOLO, HD 40, Townsend

<u>Proponents</u>: None.

Opponents: Bob Vogel, Montana School Board Association

Eric Feaver, MEA-MFT

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 29.2}

REP. MASOLO said there are problems financing education, and this bill is a start. It allocates \$100 million to the educational trust fund, which used to exist, and will provide 90% of the interest and earnings to be used for state payments for school capital projects. The other 10% would be deposited into the educational trust fund creating a school capital projects account in the state special revenue fund.

REP. DAVE LEWIS, HD 55, Helena, added to the opening by saying this bill requires a 3/4 vote, so presenting their ideas together addressing the issue in one bill makes sense. The fiscal note will show the general fund balance will be increased by \$11.5 million in 2002 and \$10 million in 2003, which will increase the balance without raising taxes. A fund called the 21st Century Fund will be created with \$150 million and would be available to supplement the Treasure State Endowment Fund, the fund now that is approximately \$10 million per year to use for infrastructure grants to local government. An additional \$30 million per year would expand the use of these funds to roads, as well as water and sewer. Education, roads, water, and sewer need to be

improved for Montana's future economy. This bill would take money from the general coal trust fund and put it into a separate fund for these purposes.

Proponents' Testimony: None.

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 38}

Eric Feaver, MEA-MFT, said they like the first part of the bill that creates an education trust dedicated to the equalization for capital construction of school buildings in Montana. This would recreate the education trust that the legislature eliminated in 1986 to pay off debt. The part of the bill that takes out of the permanent trust is not good, as this trust is one of the few sources of revenue that grows and the taxpayers do not pay for. The third part of the bill that takes \$20 million right out of the permanent fund and not into the education trust is also not good. The committee should look at amending this bill to keep the good part and eliminate the bad parts.

Bob Vogel, Director of Governmental Relations, Montana School Boards Association, said they agree with much of what Mr. Feaver has said, and the members of the association are somewhat divided on this bill. Education needs funding, but they are concerned about the 3/4 vote needed to take this action and wonder if this is a realistic funding source. If the bill was amended to look at just the education component, they would be supportive of the bill.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 46.6}

REP. BALYEAT asked if some history could be given on the coal tax trust fund, such as what it was set up for originally, what the purposes were, how much money was envisioned, and any revisions that might be made to it. REP. LEWIS said he worked on the drafting of the trust language in 1975. They did not want the coal tax money going into the base spending for state government, but it was unsure what was going to be done in the future. In the long run, it was the idea this trust would be used to improve Montana's economy to account for the loss of resources from coal mining. In 1992, it was proposed to the voters to take half of the revenue going into the trust and use it for infrastructure, and this failed. An alternative, the Treasure State Endowment, was proposed to set aside a portion of the trust and use the interest from that for infrastructure, and this was adopted.

Over the years, the trust has been used for different things, but it has continued to grow. The value of the trust is reduced by inflation each year, so there is an argument to use the money on water and sewer now rather than investing it in bonds, because in the long run the value of those projects grows. REP. BALYEAT mentioned that Eric Feaver said the best tax is a tax somebody else pays and wondered if there was a response to the statement to include addressing taxpayers as a whole paying for this proposal. REP. LEWIS said they could levy mills to build these projects, but that would be very difficult to do. To build the economy in the future, you have to have infrastructure for education, water, and sewer. The current income is not there for these improvements, so Montana will probably continue in a downward spiral.

REP. ERICKSON said there was another view that by creating the coal trust Montana would have something for future generations when the minerals and money from those minerals was gone. He asked if there was indeed more than one view of the trust development and that the people voted for this to put it into the constitution. REP. LEWIS said he believes there is indeed more than one view, and this was a hard fought issue. Some were concerned about setting aside the money so government did not grow too fast, and others agreed with the statement above. REP. ERICKSON asked if the interest from the fund going into the Treasure State Endowment for development of infrastructure is not enough and wondered if this was the point. REP. LEWIS said this is what he has suggested. The needs in the state are such that an extra \$30 million per year matched with other dollars would allow a catchup.

REP. SOMERVILLE asked if the decrease in the fund balance due to inflation means there are low interest bonds being provided to out-of-state people who are reinvesting this money and making more money than we are. REP. LEWIS said if 100% of the interest is spent, the real value of the trust fund is being diminished by inflation. What you can buy with the dollars in the trust is worth less tomorrow than today because of inflation. The interest on the bonds that are invested is about 7%, and the people who borrow the money are making more with that money than the 7% they are paying Montana.

REP. WANZENRIED asked if it was true that in 1975 it was not only the Democratic party who opposed efforts to establish a trust fund. REP. LEWIS said this was true. REP. WANZENRIED asked that if it takes a required 3/4 vote of the legislature to set up an education trust fund it was also true it would take a simple majority vote to use that money. REP. LEWIS said he understood whatever was done inside the trust requires a 3/4 vote, and the

education trust fund is still in the trust and cannot be taken out without a 3/4 vote. REP. WANZENRIED asked that if the argument is the money in the coal trust needs to be used now as an investment in something of value if they should have a proposal to eliminate the trust fund entirely. REP. LEWIS said he has never believed government should save money and should not collect any more than we need to operate on a yearly basis. minority party at the time resisted the trust because they were suggesting the tax should be cut in half and not put into a trust There would most likely be a larger coal industry in Montana today if this route had actually been taken. REP. WANZENRIED asked if it was also an argument that the interest is not needed that is generated from the trust fund to help balance the budget. REP. LEWIS said if an additional \$60 million in construction was being done for five years and there was value being built in the private sector, the economy will grow, so the interest loss from taking the money out of the fund will be made up by a larger and more healthy economy in Montana.

REP. SCHMIDT asked for clarification on the trust fund balance. REP. LEWIS said the projection for 2003 is \$525.8 million in the permanent trust and \$118.3 million on the Treasure State Endowment. REP. SCHMIDT asked if the permanent trust fund amount would be the one reduced. REP. LEWIS said it was. The \$100 million would be reduced from the permanent trust fund amount, and the rest of the proposal takes \$150 million and sets it aside in a fund that could be appropriated by a majority vote of the legislature for infrastructure. REP. SCHMIDT said the last legislature gave a lot of tax breaks and wondered if this infrastructure plan is part of an economic development plan. REP. LEWIS said the infrastructure proposal is a very important part of economic development. If matching dollars can be provided to communities to build infrastructure, it will be more likely we are able to be competitive in trying to expand our job base. There is not the tax base to deal with the current projects that are needed. REP. SCHMIDT asked what was already within the trust regarding infrastructure. REP. LEWIS said water and sewer could be financed with the interest on the Treasure State Endowment of about \$6.5 million per year. REP. SCHMIDT asked how communities would apply for projects in the proposed plan. REP. LEWIS said it would be handled exactly as the Treasure State Endowment grant program is handled now by the Department of Commerce. It just gives an additional \$30 million to use for projects.

REP. JACKSON asked if this proposal would be a matching grant and wondered how the money would get to the communities to develop the infrastructure. **REP. LEWIS** said this would be a 50-50 matching grant and would apply through the existing Treasure

State Endowment process. They could use Treasure State Endowment money they might get as a match for this.

REP. WAITSCHIES asked for clarification that the proposal is an additional education fund along with Treasure State fund and regional water fund. REP. LEWIS said yes. REP. WAITSCHIES asked if an additional fund, 2^{1st} Century Fund, was being proposed not within the trust fund boundary. REP. LEWIS said this was right. \$150 million would be taken from the \$545 million in the permanent trust and put it into the 21st Century Fund, which would be available for appropriation by the legislature for Treasure State Endowment projects at the rate of \$30 million per year. REP. WAITSCHIES asked if the \$30 million per year came out of the permanent fund. REP. LEWIS said \$150 million comes out of the permanent fund into another account, the 21st Century Fund, which would be available to be appropriate by the legislature at the rate of \$30 million per year for five years to supplement the existing Treasure State Endowment. REP. WAITSCHIES asked what the \$20 million listed in the title of the bill was for. LEWIS said this would come out for the first two years to hold the general fund harmless from the loss of interest. After the first biennium when building the next budget, there will have been two years to acknowledge the interest earnings would be less, take a look at the impact of the grants, and see what the economy is doing. REP. WAITSCHIES asked if the coal severance tax coming in would go into the permanent fund. REP. LEWIS said all the new money goes into the Treasure State and Regional Water funds. Outstanding bonds are secured by the flow of revenue, and this does not affect that.

CHAIRMAN STORY asked how the money would be awarded from the School Capital Fund. REP. MASOLO said it would be on a grant Schools could apply, but they would have to match it. CHAIRMAN STORY asked if equalization problems would exist there. REP. MASOLO said there would. This money would be there to help the poorer districts because of the equality issue. CHAIRMAN STORY asked if the proposal was to add to the present money the legislature puts into Capital Equalization Fund or if it is to replace that money. REP. MASOLO said it would be separate from the Capital Equalization Fund. Madeline Quinlin, Office of Public Instruction, clarified how the money would be distributed to schools. Any school district with a tax base per pupil lower than the statewide guarantee level would receive a grant under this bill. Out of 450 school districts in Montana, approximately 375 are eligible for a grant. They could use it to either pay off their debt service or save it in their building fund until they have a construction project they are working on. CHAIRMAN STORY asked if this would be a yearly distribution to districts

to put into their building reserve fund or use it to meet their existing debt obligations. Madeline Quinlin said not the building reserve but the building fund. Building reserve fund is a budgeted fund that is levied through property taxes for a specific project. A building fund is where insurance proceeds and other money not earned for specific projects goes. CHAIRMAN STORY asked how much money the state is presently budgeting for the Capital Equalization Fund. Madeline Quinlin said for FY 2001 it is \$4 million going to approximately 70 school districts for help in reducing their debt service. In the governor's budget, this increases by \$350,000 each year. CHAIRMAN STORY asked if this was additional money. Madeline Quinlin said it was additional.

REP. WANZENRIED asked if the Office of Public Instruction had a position on this legislation. **Madeline Quinlin** said they supported this bill last session when it was specifically for capital projects, but this is a legislative decision.

REP. ANDERSON gave an example of an expanding school in her district and asked if the building fund could be used to bond for additional needed money. **Madeline Quinlin** said they could use the capital projects money they would get under this bill to supplement their bonds.

REP. BALYEAT asked for clarification of a statement made. Madeline Quinlin said she was referring to Section 1 of the bill, which states, "The state payment for school capital projects per district is the capital projects entitlement multiplied times the factor." The district mill value per student, which is basically the amount of money one mill levied in the district will raise per student, is compared to the statewide quarantee. The state would pay the remaining amount of the guarantee level that the district did not raise. REP. BALYEAT asked that if additional money was provided to all of the school districts below the state guarantee level if the long-range impacts would raise the state quarantee level in the future. Madeline Quinlin said the statewide quarantee level is determined by the property tax base and the number of pupils. If the state is attributing to school capital projects is not going to affect the statewide guarantee level.

REP. ERICKSON asked if capital projects are the best way to use \$100 million for education. Madeline Quinlin said there is not a lot of school construction in Montana right now because of declining enrollment, but there is remodeling, a need to keep buildings current, and adaptation to technology, so there are needs for capital projects. The Supreme Court in their ruling said facilities are part of providing equalization. REP. MASOLO

said this will give flexibility to the school districts so they could use the money for other needs.

REP. SOMERVILLE asked if school funding is trying to be addressed in this legislature by focusing on certain schools rather than school districts. Madeline Quinlin said the grants in this bill would go to districts and not to specific schools. The concept of providing state money to a district based on the property tax wealth has been in place, and not everything in the school funding system is based on a per student cost.

REP. BALES asked if the building fund could be explained, as he believed a school district could not keep any money from year to year to build up for improvements. Madeline Quinlin said there are three funds for school district capital projects: the debt service fund that a district uses to pay off its bonds; a building reserve fund in which property tax monies are deposited after voters have approved a building reserve for a specific purpose; and a building fund, which the major source is insurance payments and they can build. This bill proposes to put the capital projects money into the building fund. REP. BALES asked what was needed to get the money out of the building fund. Madeline Quinlin replied the school board would decide how the money would be spent.

CHAIRMAN STORY asked for an explanation of how to create a trust within the coal trust based on the court decision. Greg Petesch, Legislative Services, said the court stated, "In 1981 and subsequently, the legislature divided the trust and the various funds with dedicated services. We held that so long as the legislature did so by a 3/4 vote of each house, it had the right to do so." Therefore, a 3/4 vote is needed to establish a trust within the trust.

REP. SCHMIDT asked for clarification on the 1984 date mentioned. Greg Petesch said in 1984 was the Grossman decision creating the Coal Severance Tax Bond Fund. REP. SCHMIDT asked if the other trusts within the trust have been created with a majority vote. Greg Petesch said there was not a requirement in the bills that a 3/4 vote be received. REP. SCHMIDT asked what could happen to the trusts that only required a majority vote based on the court decision. Greg Petesch replied if someone were to challenge them, he hoped the court would be persuaded to see the error in their statement.

REP. WANZENRIED asked if the education trust proposed in the bill would require a 3/4 vote. **Greg Petesch** said it would. **REP. WANZENRIED** asked if the use of the monies in the education trust

require a 3/4 vote. **Greg Petesch** said it depended on the use it was wanted for. If you took the money out of the education trust, it would. If you use the interest on the trust, a majority vote is needed. **REP. WANZENRIED** asked if the court were challenged the use of the monies could be based on a majority vote. **Greg Petesch** said no, because taking the money out of the trust clearly requires a 3/4 vote, so he does not see the rationale why creating a sub-fund within the trust requires a 3/4 vote. He believes the reason Grossman required a 3/4 vote to set up the Coal Severance Tax Bond Fund was because the principal of the trust was not actually being appropriated.

REP. BALYEAT asked if there was a 3/4 vote needed to pass out of committee. **Greg Petesch** said no, as a 3/4 vote is required of the legislature on the third reading. **REP. BALYEAT** asked if a 3/4 vote was needed of each house of the legislature. **Greg Petesch** replied each house of the legislature in this instance.

REP. ERICKSON asked if it was agreed this bill would be a tax expenditure to the future for the general fund. REP. LEWIS said the impact of the investment of the infrastructure needs to be looked at. If there was zero impact and returns on the Montana economy, this could be correct, but the loss of interest on the \$150 million which might be a tax expenditure will not be a total loss to the economy because the money is being invested in infrastructure for economic development. REP. ERICKSON asked if it was agreed there will be less money coming from the Coal Trust into the general fund. REP. LEWIS said after this biennium that is true. REP. ERICKSON asked if the expenditure was a \$20 million hit per year forever. REP. LEWIS said the positive general fund impact is \$11.5 million the first year, \$10.1 million the second year, and then it goes to negative \$12 million, \$14 million, \$16 million, \$18 million, and five years out \$20 million. By that time, it would be suggested Montana will be booming and the economy will offset that loss of revenue. REP. ERICKSON asked if it was agreed there could be some cumulative impacts from tax expenditures based on tax changes going on right now. REP. LEWIS said this is a major public policy debate, and he believes there needs to be things done to be competitive in tax structure and infrastructure to help us grown our economy.

CHAIRMAN STORY asked if it was agreed a portion of the Coal Trust is being paid by all Montanans, as the coal going into the generators to generate electricity is consumed by people and they are paying the tax. Eric Feaver said they are now more than ever. CHAIRMAN STORY asked if the last legislature attempted to change the coal taxing system and in doing so changed the

proportion of the money going into the Treasure State Endowment and Rural Water Fund so the funds would be held harmless, and the Supreme Court decision negated part of that law which caused the large infusion into the Treasure State Endowment, so this was not a legislative decision to put all the money into these two funds. REP. LEWIS said this was true. CHAIRMAN STORY asked if the language in the bill transferring \$20 million each year for the biennium into the trust was clear enough so this does not become an ongoing transfer. REP. LEWIS said the intention was to only apply to this biennium, but he would need to clarify this.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 43.5}

REP. MASOLO said there needs to be something done bipartisan, and this is a chance to address education, business and jobs, and agriculture. This bill will provide property tax relief as it relieves the taxpayers of bond issue indebtedness. It is also an economic bill, and education is an investment in our children's future. If there are good amendments to the bill, she would work with the committee to implement these.

<u>ADJOURNMENT</u>

Adjournment:	9:45 A.M.				
		 REP	. BOI	3 STORY	, Chairman
		 RHONDA	VAN	METER,	Secretary
BS/RV					

EXHIBIT (tah14aad)